

EXECUTIVE SESSION AND WORK SESSION – FEBRUARY 20, 2024

EXECUTIVE SESSION – February 20, 2024

Mayor Martinez called the Executive Session to order at 3:04 p.m.

On a motion duly made by Councilmember T. Burnett and seconded by Councilmember S. McIntire, the Mayor and City Council unanimously agreed by voice vote to meet in closed session to consult with counsel to obtain legal advice; (#7) (Section 3-305(b)), on Tuesday, February 20, 2024 at 3:04 p.m. in the Council Chamber, 2nd floor, City Hall, Hagerstown, Maryland.

Participating with Mayor Martinez were Councilmembers K. B. Aleshire, T. Burnett, S. McIntire, P. E. Perini, Sr., and M. J. Schindler, City Administrator Scott Nicewarner, City Attorney Ann Rotz, Michelle Hepburn, Chief Financial Officer, Nancy Hausrath, Director of Utilities, Kathleen Maher, Director of Planning and Code Administration, Jill Thompson, Director of Community and Economic Development, and City Clerk Donna K. Spickler.

The meeting was held to discuss legal counsel for the various City boards and commissions, legal advice for a pending project, and a possible amendment to the Joint Sewer Service Area (JSSA) Agreement. No formal action was taken at the meeting. On a motion duly made, seconded, and passed, the meeting was adjourned at 3:54 p.m.

WORK SESSION – February 20, 2024

Mayor T. Martinez called this Work Session of the Mayor and City Council to order at 4:03 p.m., Tuesday, February 20, 2024, in the Council Chamber at City Hall.

Participating with the Mayor were Councilmembers K. B. Aleshire, T. Burnett, S. McIntire, P. E. Perini, Sr., and M. J. Schindler, City Administrator Scott A. Nicewarner, and City Clerk D. K. Spickler.

Housing Authority Merger

Sean Griffith, Executive Director of the Hagerstown Housing Authority (HHA), was present to discuss a possible merger of the HHA with the Washington County Housing Authority (WCHA).

Mr. Griffith informed the group that Commissioner Wayne Keefer reached out to him and asked if the HHA Board would entertain a possible merger between the WCHA and the HHA. He stated the HHA Board is willing to discuss this possibility. He is requesting a letter of support for the discussion from the Mayor and City Council.

Mayor Martinez asked Mr. Griffith for his thoughts on a merger. Mr. Griffith stated he has been approached by several elected officials from Hagerstown, the County, and the State about having a conversation. He doesn't know if a merger is possible, but the HHA Board has agreed to discuss it.

Councilmember McIntire asked what changes the City would see with a merger. Mr. Griffith stated a merger would affect the City's board appointments to the Authority.

Councilmember McIntire asked what the benefit of combined Housing Authorities for Washington County is. Mr. Griffith stated that information has not been shared with him.

Councilmember Aleshire stated it is important to put into context the size difference between the two agencies. He believes the primary reason the group is sitting here entertaining the idea of the County program being folded into the City program is the size of the two agencies. The HHA is four times larger than the WCHA. The thing that would change primarily is the operation. Currently, all of the unit operations of the HHA occur within the City limits. If the two are combined, maintenance and operations would be spread throughout the County. As a body, the Mayor and City Council don't know who serves on the HHA Board. The Mayor appoints the Board's members. He recalled the issues with the McCleary-Hill Development. The HHA made the decision to diversify the areas in which it provides housing to citizens. There were individuals outside the City limits (Cedar Lawn area) who were not happy about those decisions. In 2020, when COVID was beginning, the State issued guidelines for business closures and the issue of enforcement became political. The County attempted to apply their political agenda to the Health Department regarding the business closures. He does not want developments with the County and the State to become politicized in any way. The HHA is effective, and operations are efficient. He is concerned that an agency that is not working well would be merged with one that is working well.

Mr. Griffith stated he does not know if the WCHA has been approached about a possible merger.

Councilmember Perini wondered why a merger has not happened organically between the two organizations.

Councilmember McIntire supports a discussion and is curious to see how the groups view a potential merger.

It was the general consensus to provide a letter of support for discussions about a potential merger. Mr. Nicewarner will provide the letter tomorrow.

#### Preliminary Agenda Review

Mayor Martinez announced that Citizen Comments for the February 27, 2024 Regular Session will be welcome either in person or by submitting comments by email to [councilcommens@hagerstownmd.org](mailto:councilcommens@hagerstownmd.org) by 5:00 p.m. that day. If by email, the submitter's name, address, and a summary of the comments will be announced during the Citizen Comments portion of the meeting. The email will not be read in its entirety, but it will be included in the public record for the meeting and may be viewed by the public at any time.

## Consent Agenda

- A. Community Engagement:
  - 1. Open Container Exemption and Street Closure – St. Patrick’s Day Street Festival – March 16, 2024
  
- B. Engineering:
  - 1. Medway Road Drainage Improvements – Henson & Son, Inc. (Hagerstown, MD) \$73,000.00
  - 2. MKS Business Park Stormwater Retrofit Project – Change Orders to Project – Superior Facilities Management Services (SFMS) (Bethesda, MD) \$ 60,000.00
  - 3. Trash Totes – Rehrig Pacific Co. (Erie, PA) \$ 928,000.00
  
- C. Information Technology:
  - 1. Cisco Duo MFA Software Renewal – SHI (Somerset, NJ) \$ 26,940.00
  
- D. Police:
  - 1. Mobile Radios – Washington County Wireless Communications (Hagerstown, MD) \$ 20,502.15
  - 2. Annual Mid-Atlantic Regional Gang Investigators Network (MARGIN) Conference – Mid-Atlantic Regional Gang Investigators Network (Fairplay, MD) \$ 20,00.00
  
- E. Public Works:
  - 1. City Hall Improvements – 1<sup>st</sup> Floor Renovations – Newcomers (Chambersburg, PA) \$ 38,940.00
  - 2. Gasboy Islander Prime Pedestal and Software – Spigler Petroleum Equipment, LLC (Westminster, MD) \$ 12,574.80
  - 3. Signal Controller Upgrades for S. Potomac St. and Memorial Boulevard – Econolite (Glen Burnie, MD) \$ 27,191.00
  - 4. Hellane Park West End Little League Roof Replacements – Restoration Unlimited, Inc. (Williamsport, MD) \$ 33,940.00
  - 5. Potterfield Pool Chemicals – Amato Industries, Inc. (Silver Spring, MD) \$ 28,000.00
  - 6. Downtown Beautification Program – Litter Receptacles – Victor Stanley (Dunkirk, MD) \$ 14,992.40
  
- F. Utilities:
  - 1. Light: Vegetation Management Blanket Contract – N. G. Gilbert (Muncie, IN) \$ 580,616.10
  - 2. Water: Annual Maintenance Contract for Hach Analyzers – Hach Company (Loveland, CO) \$ 20,872.00
  - 3. Wastewater: Defoamer – Maryland Biochemical (Bel Air, MD) \$ 29,284.80
  - 4. Wastewater: SCADA System Spare Parts – Capital Electric (Hagerstown, MD) \$ 14,939.47
  - 5. Wastewater: Automatic Vehicular Entrance Gate System – ProMax Fence Systems, Inc. (Reading, PA) \$ 165,805.00

Mr. Nicewarner noted there are two resolutions terminating agreements with Little League groups on the agenda for approval. No Little League group is being terminated, two are joining together to create the Hub City Little League.

This completed the Preliminary Agenda Review. There were no additional questions about any items. All items, unless noted, are scheduled for approval on February 27, 2024.

#### FY 2025 Downtown Event Grant Process

Brittany Arizmendi, Community Engagement Officer, was present to provide updates to the Downtown Event Grant application and process.

Changes include the following:

1. Cap funding at \$ 3,000
2. Funding range is from \$ 500 to \$ 3,000
3. Events must take place on public property (City parks, street, public-owned spaces)

The FY25 application will launch on Wednesday, March 6, 2024, and remain open through May 1, 2024. Applications will be reviewed by staff and awards will be sent out by mid-June.

Applications received after May 2, 2024 will be reviewed if funds are still available.

The goal of the Downton Event Grant is to have organizations host events within the Main Street district to help bolster economic growth and encourage community involvement.

Ms. Arizmendi stated more than 30 applications were received last year and she expects more for the coming year.

Mayor Martinez asked if \$ 3,000 was the cap for funding last year. Ms. Arizmendi stated it was and it is now in writing. People can still ask for more if they wish to.

Several events last year were held inside businesses. This program attempts to have events hosted outdoors in the Main Street District and Arts and Entertainment District.

Councilmember Perini agrees there should be a cap on the funding and supports focusing on the Arts and Entertainment District. He asked if the Council would be willing to extend an exception for other properties provided there is not an expense for using the property.

Ms. Arizmendi noted the City sponsors the Community Art Show the Washington County Arts Council holds every year. They don't charge admission.

Councilmember Perini asked if this event would require an exception under the proposed changes. Ms. Arizmendi stated language could be included to indicate similar events could be granted an exception.

Councilmember Schindler asked if staff anticipates the requested amounts will exceed the funding available. Ms. Arizmendi stated staff has been gracious and accepted applications submitted after the deadline. Part of the proposed amendments is to make everyone aware that if they wait to apply, the funds will likely be exhausted.

There is \$ 41,000 budgeted for the FY2025 Downtown Event Grant. Councilmember Perini thinks the amount should be higher. Ms. Arizmendi and staff have done an exceptional job in bringing more events downtown. Running out of money in the grant program is a good problem.

Councilmember McIntire believes there will be more opportunities with the things that are happening downtown.

Ms. Arizmendi noted the goal is to have more events. The proposed changes are an attempt to set boundaries in order to be fair and equal to all organizations.

It was the general consensus to approve the proposed amendments.

#### Approval to Submit Application for the FY 2024 Maryland SOLE Grant

Nathan Fridinger, Deputy Director of Electric Operations, was present to discuss the FY24 Maryland SOLE Grant. The Maryland Energy Administration is seeking applications from Maryland nonprofits, state agencies, counties and incorporated cities, public and private schools, and community colleges for the FY24 Streetlight and Outdoor Lighting Efficiency (SOLE) pilot program for conversion of outdoor High Intensity Discharge (HID) lighting to Light-Emitting Diode (LED) technology. A total of \$ 1 million is being offered on a first-come, first-served basis with a cap of up to \$ 250,000 per application due by March 8, 2024.

Reimbursements are limited to \$ 150 per lamp rated less than 176 Watts, \$ 200 per lamp rated between 176 and 250 Watts, and \$ 300 per lamp rated between 251 and 400 Watts. Staff identified 521 lamps meeting these criteria along certain routes and is requesting approval to apply for a grant amount of \$ 111,000, with a total project cost estimated to be \$ 233,630. The Light Department will provide \$ 122,630 in Capital. A projected annual energy savings of \$ 34,328 to the General Fund is anticipated. The routes, quantities, and energy savings are subject to change depending on the amount awarded by the State.

Councilmember Perini asked if there is a reason the City wouldn't ask for the full amount. Mr. Fridinger stated applying for the maximum amount would double the required capital investment.

American Rescue Plan Act of 2021 (ARPA) Allocations and Update

Michelle Hepburn, Chief Financial Officer, and Brooke Garver, Accounting and Budget Manager, were present to provide an update of the American Rescue Plan Act of 2021 (APRA) Allocations.

ARPA funding provided to the City totals \$ 20.4 million. The City has spent \$ 8.1 million or approximately 39.8% of that total funding as of December 31, 2023. The totals below do not include amounts that are obligated and encumbered on open purchase orders:

1. FY21 - \$ 2.15 million
2. FY22 - \$ 2.11 million
3. FY23 - \$ 1.96 million
4. FY24 through December 31 - \$ 1.90 million

As a reminder, the IRS defined seven different eligible categories in which this funding can be spent. Each category has specifications on eligibility criteria. The seven categories include the following: Public Health, Negative Economic Impacts, Negative Economic Impact: Public Sector, Premium Pay, Infrastructure, Revenue Replacement, and Administrative. The following reflects the current allocation and strategy of how the City plans to spend the \$ 20.4 million:

- |   |     |
|---|-----|
| 1. Public Health                            | 12% |
| 2. Negative Economic Impacts                | 9%  |
| 3. Negative Economic Impacts: Public Sector | 9%  |
| 4. Premium Pay                              | 11% |
| 5. Infrastructure                           | 26% |
| 6. Revenue Replacement                      | 32% |
| 7. Administrative                           | 1%  |

Ms. Hepburn noted the last update was in November, 2023. She anticipates staff will provide monthly updates as the deadline of December 31, 2024 to utilize the funding approaches. There may be an IRS ruling that increases the length of time to spend funds that are obligated.

Ms. Garver reviewed the listing of completed projects, which includes projects at the Hagerstown Ice Rink, Goodwill Community Outreach, FSU HUB@USMH, 2-Factor Authentication Software, Public Facility Emergency Equipment, HPD Firing Range Security Gate, Backhoe Purchase, Camera Truck, HPD Firing Range Target System, PAL Roof, Drones, HFD Ladder Truck, Community Outreach Vehicle, HFD Natural Gas Generator, and Premium Pay to City Employees.

Projects Allocated and Started include the following:

1. 32 N. Potomac Street Purchase and Renovation - \$ 1.8 million spent
2. ENVY Initiatives - \$ 1,292 spent
3. Convention and Visitor's Bureau - \$ 122,945 spent
4. Support for Local Artist and Bands – Heart of the Art Grant - \$ 6,500 spent
5. City-Wide Restaurant Ready Grant Program - \$ 0 spent

6. Blight Eradication/Operation Takeback Initiative - \$ 122,019 spent
7. Brothers United Who Care Speak Up! Community news - \$ 23,038 spent
8. Assistance to Nonprofits - \$ 0 spent – checks will be issued soon as paperwork is completed
9. Outreach Coordinator Position - \$ 124,097 spent
10. Office 365 Implementation - \$ 161,894 spent
11. Trash Truck - \$ 0 spent
12. City Hall Elevator Replacement - \$ 11,300 spent
13. Arctic Wolf Software - \$ 97,907 spent
14. Pump Station #13 - \$ 0 spent
15. Pump Station #9/#33 - \$ 0 spent
16. Stormwater Project - \$ 0 spent
17. HPD Body-Worn Cameras - \$ 348,781 spent
18. Solid Waste Collection Totes - \$ 46,302 spent
19. Professional Court Extension \$ 0 spent
20. Traffic Signal upgrade - \$ 11,300 spent
21. Grant Coordinator - \$ 207,465 spent

It is likely Pump Station 13 will be removed from the list due to timing and will be replaced with Inflow/Infiltration work. The City was also awarded Appalachian Regional Commission funding for the pump station work.

Projects that have not been started include the following:

1. Community Health and Rehabilitation Resources, i.e. 24-hour Crisis Center
2. Youth Violence Prevention
3. Increase educational/training opportunities for City residents
4. Citywide Phone System Upgrade
5. Public Safety Radios and In-Station Altering
6. HPD Firing Range Additional Storage Space
7. HFD Community Risk Reduction Boards
8. HFD Flashover Simulator – Information being presented to the Mayor and City Council in March
9. Wheaton Park Phase II – Recommended change in funding source
10. HFD and HPD Generators – to assist in relocation of some operations
11. Fuel Station Dispensing Units
12. Placeholder for Other Eligible Projects
13. IT Generator – needed for security
14. HFD Windows
15. Engineering – Survey Grade RTK GPS Receiver
16. Wastewater Pump Station Generator
17. Gasboy Fleet System – Included on February 27, 2024 Agenda for approval
18. Sidewalk Replacement – Program implemented with Stormwater Management Fees – City is responsible for sidewalk and curb repairs

Ms. Hepburn reported the City received the annual Constant Yield Tax Notice this week and it matches staff's estimates of approximately 6% growth.

Annexation A-2023-04: Heavens Heights Homes, LLC

Kathleen Maher, Director of Planning and Code Administration, was present to provide information about Heavens Heights Homes, LLC.

A formal petition for the annexation of the Lands of Heavens Heights Homes, LLC was submitted on December 8, 2023. The property is located on the west side of Southern Boulevard and north of East Oak Ridge Drive.

The current County zoning for the property is Residential Suburban (RS). The applicant requested Residential-Moderate Density (RMOD) zoning, a comparable City zoning classification to the current designation, which allows for single-family and two-family dwellings.

The area of the property is +/- 12.08 acres. It is within the City's Medium Range Growth Area (MRGA), County's Urban Growth Area (UGA), and State's Priority Funding Area (PFA). Wastewater and Water will be provided by the City upon development. Electricity is provided by Potomac Edison. Maintenance of the Right-of-Ways will remain the same. Emergency services will be provided by City Police, City Fire, Meritus, and Community Rescue Service.

The owner plans to build 1 single-family home and 30 two-family units. Staff has conferred with the Washington County Public Schools representatives on school capacity.

The Planning Commission reviewed the annexation plan and the proposed zoning at their January 31, 2024 meeting and recommend RMOD zoning.

If the Mayor and Council are ready to move forward with this annexation request, the petition will be presented at the February 27, 2024 meeting. Following that, the annexation plan will be placed on the agenda for approval and the annexation resolution will be placed on the agenda for introduction.

It was the general consensus to move forward with the annexation request as outlined.

Circuit Court Location

Councilmember Peter E. Perini, Sr. discussed a new Circuit Court building location.

It should be made clear that any decision about a Circuit Court Facility is a County function and not a City function. The topic of this discussion should not be labeled as a discussion about location.

Two County Commissioners mentioned the Circuit Court facility in Hagerstown. Commissioner President John Barr, during a quasi-public session in Annapolis with the Speaker of the House, mentioned the potential need for a new facility. Commissioner Randy Wagner mentioned the facility during his comments and remarks at the State of the County. Councilmember Perini stated he believes there will ultimately be discussions

about the current Circuit Court facility. He believes those discussions will lead towards a decision that the current facility may not be adequate for modern day needs for a Circuit Court. Primarily security is a concern. Due to events here in October, in which Judge Andrew Wilkinson was murdered, security is on many people's minds around the County and the area. He hopes the Mayor and City Council will find ways to work cooperatively with those involved in the discussions. Hagerstown is the County Seat. Both Circuit Court and District Court are downtown and are an important function for the community. He doesn't think Hagerstown representatives should be bystanders in the discussion. He wants to be proactive while keeping in mind this is a County issue and County decision and he hopes everyone will work together. He also would like a new building to be in memory of Judge Wilkinson. He understands the County did not pursue funding for studies regarding a new courthouse during this legislative session. There is an opportunity to spend the summer and fall figuring out what is needed and what the community wants.

Councilmember McIntire asked how far discussions have progressed.

Councilmember Perini does not think formal discussions have been held.

Councilmember McIntire asked if he anticipates discussions will take place during this administration.

Councilmember Perini anticipates a full replacement will cost hundreds of millions of dollars and at least five years to complete. It would span multiple administrations.

#### Transient Housing Update

Paul Fulk, Neighborhood Services Manager, and Emily McFarland, Neighborhood Services Programs Coordinator II, were present to provide an update on the Transient Housing Licensing Program, Chapter 230, which became effective on July 21, 2023.

The Planning and Code Administration Department sent initial applications to all thirteen hotels in August of 2023 to collect contact information for the transient housing facilities along with a form seeking an inspection of the property. The hotel property owner or representative was asked to provide three dates the hotel would be available for a joint inspection during September and October.

Code Administration, along with the Fire Marshall's Office, performed the required joint inspections at eleven of the thirteen hotels during September and October. One hotel was inspected in November and the other was inspected in January. The inspections teams stayed the same throughout the process. Accumulatively, there were 2,297 code violations identified during the joint inspections. The majority of the violations were for electrical and fire hazards. Staff found cooking appliances in every hotel as well as unpermitted work. 64% of the rooms inspected were vacant during the inspection, 22% were occupied by transient guests, and 13% were occupied by residents at the hotels.

The joint inspections were performed to determine the status of each hotel as required by the ordinance. There are two tiers for the transient housing hotel license. A Tier 1 hotel is required to have less than 0.50 code violations per room during the initial year of the application and a Tier 2 is above 0.50 code violations per room.

Applications for the 2024 license year were mailed on December 1, 2023 with the tier determination based on the joint inspections performed prior to the mailing. If a hotel did not schedule an inspection with the Department prior to December 1, the hotel was deemed a Tier 2 hotel.

There were 6 hotels (Fairfield Inn & Suites, Hampton Inn, Homewood Suites, Springhill Suites, Home2Suites, and Courtyard) qualifying as Tier 1 and 7 hotels as Tier 2 (APM Suites, Days Inn, Super 8, Comfort Suites, Dagmar/Crown, Quality Inn/Econo, and Plaza Inn and Suites). A Tier 2 hotel has a \$ 500 license fee. Tier 1 hotels will be reinspected in the Fall of 2026, with Tier 2 hotels being reinspected in the Fall of 2024.

Mr. Fulk reported some hotels had amenities he was not aware of, such as guest laundries. Hotel staff were accommodating and respectful during the inspections. He found out some of the entertainers who perform in the Arts and Entertainment District stay in some of the hotels. It is important that the reflection of the hotels is positive for Hagerstown.

The ordinance requires hotel staff to obtain two training courses. The trainings are the Overdose Response Program Training provided by the Washington County Health Department and the other training is on how to identify human trafficking activities and human trafficking victims. The human trafficking training must be approved by the Maryland Governor's Office of Crime Prevention, Youth, and Victim Services and the Maryland Department of Labor. There are currently three trainings approved by the State for human trafficking. Each hotel is to provide written proof of completing the training. Staff are in the process of collecting this proof of completion.

Code Administration staff attended training provided by the Department of Homeland Security and the Maryland State's Attorney's Office in Frederick. The training was provided by the attorneys which assisted with drafting the state legislation regarding human trafficking and a homeland security agent for investigating human trafficking crimes for Western Maryland.

The inspections of hotels identified areas of the code that do not clearly identify items for correction. To improve communications with the code, amendments will need to be made to the property maintenance code, plumbing code, and mechanical code. The property maintenance code updates would address codes related to fire protection, smoke/carbon monoxide alarms, documentation of third-party inspections, closing of unsafe transient housing units, and adding definitions. The updates to the plumbing and mechanical codes would clarify stop work orders for unpermitted work and the code appeal process.

Staff recommend requiring the transient housing license to be posted in the lobby of a transient housing facility. Hagerstown is expecting an increase in transient guests within the next few months with the completion of several projects such as the Field House and Multi-Use Sports and Events Facility. The posting of the license will allow guests at the time of check-in to know the condition of a hotel related to maintenance.

Councilmember Aleshire noted there is a clear difference between a Tier 1 and a Tier 2 hotel. Tier 1 defines good operating status and Tier 2 means there is some work to be done. The differential would be more significant if staff had not been actively working with the worst one on the list since it was condemned earlier this month. He asked if Tier 1 violations were more non-cursory compared to those in Tier 2.

Mr. Fulk indicated both tiers had violations in all categories. Tier 2 hotels had more electrical, fire, and unpermitted work violations. Many had areas converted to extended stay rooms without permits.

Councilmember Aleshire stated rooms being converted to extended stay facilities are actually operating as defacto rentals. Unless the hotel was constructed with extended stay areas, they are not functioning as the Council wants them to.

Mr. Fulk pointed out the two hotels on Pullman Lane were constructed with the intent of having extended stay guests. However, there were some appliance issues within those extended stay rooms.

Councilmember Perini asked how many nights are considered an extended stay. Mr. Fulk stated the ordinance defines an extended stay as 180 days.

Based on the results of the inspections, staff recommend including the following in the Transient Housing Regulations:

1. Require cleaning at least every 3 days for extended stay rooms
2. Enforce non-smoking room designations
3. Post license in lobby with Code violations per room number
4. Require all Code violations be abated prior to license renewal (As Anne Arundel County does)
5. Property Maintenance Code Changes:
  - a. Fire prevention
  - b. Smoke and C/O Alarms
  - c. Interior Conditions
  - d. Third Party documentation
  - e. Closing/condemning
  - f. Definitions
6. Plumbing Code Changes – Stop Work Orders and Code Appeal Process
7. Mechanical Code Changes – Stop Work Orders and Code Appeal Process

Councilmember Aleshire would prefer to begin with a percentage of violations abated for renewing a license rather than beginning with full abatement as Anne Arundel County does.

Councilmember McIntire asked if the inspection teams found Tier 2 hotels to have more violations of the smoke free room requirements. Ms. McFarland indicated that is true.

Councilmember Perini asked if the hotel ratings could be posted on the City's website. Mr. Fulk indicated that is possible.

Councilmember Schindler pointed out these inspections and discussions are working toward setting up good hotels for the anticipated visitors.

Councilmember Perini pointed out the term transient in this portion of the City Code does not refer to someone who has nowhere to go.

Councilmember Burnett asked how the inspection results are reported to the hotel owners. Mr. Fulk stated they all receive a Certificate of Appreciation thanking them for complying with the City Code and showing a list of any violations found. Mr. Fulk noted almost every hotel owner showed up at the inspections and were very understanding.

Councilmember Schindler appreciates the spirit of collaboration. Everyone wants visitors to have a safe place to stay.

Councilmember McIntire stated one of the goals with this ordinance was to reduce the calls for service. She asked what constitutes a call for service. Lt. Andrew Lewis indicated it could do a number of things – including a 911 hang-up or assisting with an emergency call. Councilmember McIntire was surprised to see on the list of total calls for service that the Hampton Inn had more calls for service while the Dagmar had fewer. This information should be shared with the Homeless Coalition.

Councilmember Perini stated some calls for service could be more serious than others.

Mayor Martinez stated the original intent of the body was to address the pressure that calls for service were putting on City police officers, in particular, calls to the hotels on the Dual Highway.

Mr. Nicewarner stated there was no program like this in 2020 and 2021. It will be interesting to see what the numbers show in the next round of inspections.

Lt. Lewis pointed out many of the calls to All-Star Court were for construction issues such as theft and cars being broken into.

Councilmember Perini asked who approves a cooking device. Mr. Fulk stated these are approved during the certificate of occupancy process. Councilmember Perini noted this means bringing cooking devices into hotel rooms is not allowed.

Staff will present details of the recommended changes to the Mayor and City Council in March. If approved, the changes would be introduced at the March 26, 2024 Regular Session.

Field House Operations Lease Agreement

Jim Bender, City Engineer, was present to review the Lease Agreement for the Hagerstown Field House. Over the past twelve months, staff and the City Attorney have negotiated a lease agreement with Eastern Sports Management (ESM) for the operation of the Field House, using initial guidance and parameters set by the City Council. There have been a number of iterations of the agreement, but staff feel that the current version protects the interest of the City while being fair to ESM and their business plan. The draft was attached with the meeting documents.

The term of the lease will be twenty (20) years, starting from Completion of Construction. ESM will pay the City \$ 1 per year in basic rent and will pay Additional Rent consisting of any property taxes (or Payment in Lieu of Taxes).

ESM will pay the City fifty percent (50%) of the net operating income for each year of the lease. The agreement commits ESM to pay to the City a minimum of \$ 350,000 per year – if Basic Rent, Additional Rent, Amusement and Admission Taxes, and Revenue Sharing are less than \$ 350,000, ESM will pay the difference to the City. Over the 20-year term of the lease, this represents a \$ 7 million commitment by ESM.

ESM shall create and fund a capital reserve account for items that are ESM's responsibility to maintain; those items are identified on Exhibit G of the agreement and ESM's guaranteed annual funding amounts are set forth on Exhibit H. ESM must coordinate with the City on large expenditures from this account.

ESM shall have the naming rights for the building, pending City approval; however, any net proceeds from the sale of building naming rights shall be placed in the Capital Reserve account and this amount is in addition to ESM's guaranteed annual funding. ESM will hold the naming rights for individual spaces or rooms within the building, and any proceeds from the sale of those rights shall also be placed in the Capital Reserve account as part of its guaranteed annual funding of Capital Reserves.

The City will be responsible for the maintenance of the structural parts of the building, including the foundations, walls, roof, windows, etc. The City will also be responsible for maintaining the building's HVAC system, elevator, sprinkler system, paved parking lots, and stormwater management facilities.

ESM will be responsible for normal maintenance of the items within the building, including flooring, carpet, bathrooms, and trash removal. In addition, ESM will be responsible for snow removal and lawn/landscaping maintenance.

Exhibit G in the agreement lists the various equipment and fixtures in the building and identifies whether the City or ESM will be responsible for their replacement. The main items that the City will be responsible for are the sports flooring, basketball backstops, volleyball standards, divider curtains, glass sport wall panels, sport wall panels, netting, dasher boards, artificial turf, and the exhaust hood in the kitchen. ESM will be responsible for the remaining items on the FF&E schedule.

Staff feels that the terms of the lease agreement are fair to both parties, and that the lease adequately protects the City's interests. Staff recommends approval of the lease.

Councilmember Aleshire is fine with the lease. He is surprised the total area is 9.3 acres as he always heard it referred to as a 6-acre area. Mr. Bender stated a survey of the entire site was completed and showed the area as 9.3 acres. Ms. Hepburn noted the survey was important to get the lease completed so the \$ 350,000 minimum payment is in place and confirmed for the bond review that will be completed later this year.

It was the general consensus to include approval of the lease agreement on the agenda for the February 27, 2024 Regular Session.

### **CITY ADMINISTRATOR'S COMMENTS**

*Scott Nicewarner, City Administrator*, reminded residents the yard waste collection will resume on February 27, 2024. He offered condolences to Margi Joe's family on the passing of her mother and Pat Leaf on the passing of his wife.

### **MAYOR AND COUNCIL COMMENTS**

*Councilmember P. E. Perini, Sr.* had no additional comments.

*Councilmember T. Burnett* and the Mayor attended the Black History Month Open House at the Governor's Mansion on Sunday, February 18, 2024. It was exciting to be there. Governor Moore thanked Mayor Martinez and Councilmember Burnett for their leadership in Hagerstown. It was a full circle moment for her from when she walked in the door at the Boys and Gils Club as a child to the Governor's House as an adult.

She submitted a letter to the Washington County Board of Election Supervisors supporting the Washington County Free Library as an early voting location. She hopes others expressed their support of keeping this location.

*Councilmember S. McIntire* stated it is important to this administration to ensure everyone has a voice at the table. The current Rules of Procedure for meetings does not provide a time for the elected body to respond to Citizen Comments until the end of the meeting. She proposed changing the meeting order to have Mayor and City Council Comments immediately after Citizen Comments. She thinks a 3-minute time limit for individual Citizen Comments is appropriate. Three Councilmembers agreed to making this change. A draft of the Rules of Procedure with the change will be provided to the Mayor and City Council for consideration.

*Councilmember K. B. Aleshire* noted the Circuit Court location is an idea in a conceptual phase. He has been at this table a long time and knows the City really doesn't have a role in the project. However, he asked whoever is making the decision to be honest with the City representatives. If a decision has already been made on the location of the project, just tell the City and don't paint the City as the bad guy or bring the City to

the table and then ignore the input. He agrees the City should be a party at the table for this project but if the decision has already been made, he would appreciate knowing this.

*Councilmember M. J. Schindler* thanked Mr. Fulk and Ms. McFarland and their teams for the information about hotels. It is important to provide a good first impression to guests visiting Hagerstown. One of the first things they see are the hotels and they all need to be safe, clean, and the best they can be.

He wishes the City could duplicate Bittany Arizmendi, Community Engagement Officer. She is a great reflection on the community and has great forethought.

*Mayor T. A. Martinez* attended the annual Conflict Resolution Awareness Day for the 9<sup>th</sup> year in Annapolis last week on Valentine's Day for the 9<sup>th</sup> year. Mediators have delivered sweets and candy to the legislators in recognition of Conflict Resolution. She is part of the family of mediators across the State. She is thankful for the legislators that know about mediation. She presented some poems online for the Blacks in Government event. More than 175 people participated in the online event. She finds it interesting that many people find it surprising there is a black Mayor in Hagerstown. She was honored to attend the Black History Month event at the Governor's Mansion this past weekend.

Mr. Nicewarner thanked Detective Weaver and Officer St. Clair from the Hagerstown Police Department for their tremendous job on America's Most Wanted last week. They discussed an open murder case and hopefully the person will be found because of the additional exposure.

Mayor Martinez thanked the Hagerstown Police Department for providing additional security at the Washington County Court House last Friday for the swearing in of Judge Kirk Downey.

There being no further business to come before the Mayor and City Council, on a motion duly made, seconded, and passed, the meeting was adjourned at 6:19 p.m.

Respectfully submitted,

*Original signed by D. K. Spickler*

Donna K. Spickler  
City Clerk

Approved: March 26, 2024